

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY)	
OF ILLINOIS)	
)	
Petition for a Certificate of Public)	
Convenience and Necessity, pursuant to)	Docket No. 14-0514
Section 8-406 of the Illinois Public Utilities)	
Act, and an Order pursuant to Section 8-)	
503 of the Public Utilities Act, to Construct,)	
Operate and Maintain a New High Voltage)	
Electric Service Line in the Counties of)	
Peoria and Knox, Illinois)	

**REPLY BRIEF
OF THE "SP PARTIES"**

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Table of Contents

I. INTRODUCTION	1
II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	2
III. NEED FOR THE PROPOSED FACILITIES TO SERVE CUSTOMERS OR TO PROMOTE DEVELOPMENT	2
IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES	2
A. Length of the Line.....	2
B. Difficulty and Cost of Construction	3
C. Difficulty and Cost of Operation and Maintenance	5
D. Environmental Impacts.....	6
E. Impacts on Historical Resources	7
F. Social and Land Use Impacts	7
G. Number of Affected Landowners and other Stakeholders and Proximity to Homes and Other Structures.....	8
H. Proximity to Existing and Planned Development	10
I. Community Acceptance	11
J. Visual Impact.....	11
K. Presence of Existing Corridors.....	12
V. MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS	13
VI. FINANCING THE PROPOSED CONSTRUCTION.....	13
VII. SECTION 8-503 AUTHORITY	13
VIII. OTHER	13

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**REPLY BRIEF
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I. INTRODUCTION

ATXI’s Route B is the optimum route for the project. ATXI, Staff, and certain Intervenor understate ATXI Route A’s significant impact to residences. Moreover, they fail to recognize that paralleling Interstate 74 affects miles of tilled farm ground, unlike ATXI Route B, because poles that must be placed will split these tilled areas. Truly, Interstate 74 may have been identified as an opportunity, but much like ATXI’s argument about pipelines, its cons outweigh its pros. For these reasons, among others, ATXI’s Route B is the superior routing option. The SP Parties also continue to assert that the ATXI portion of the MVP16 project does not meet the requirements for a certificate of public convenience and necessity unless the MidAmerican Energy Company portion of the project is constructed.

If the Illinois Commerce Commission fails to conclude that ATXI’s Route B is the superior routing option in the project area, Charles and Annette Zelnio have proposed a minor, on property, modification. The Zelnio modification is agreeable to ATXI (ATXI,

I.B. p. 2), is supported by Staff (Staff, I.B. pp. 9-10), and no intervenor has opposed it. Accordingly, if ATXI's Route A is adopted, it should include the agreed upon Zelnio modification. As no parties argued against the Zelnio modification in their briefs, it is not discussed further.

Moreover, Steven Ramp has suggested another modification that ATXI claims it can construct (ATXI, I.B. p. 11), is supported by Staff (Staff, I.B. p. 10), is supported by Matthew and Janet Shipley (Shipley, I.B. p. 3), and that no intervenor has opposed. ATXI is the only party that opposes placing fewer homes within 150 to 500 feet from the transmission line and mitigating impacts to tilled farm ground at the slight expense of \$180,500 to the public. As ATXI pointed out "participants consistently raised two routing considerations for discussion: proximity to existing residences and potential impacts to agriculture." ATXI, I.B. p. 13. The Ramp Alt 1 modification reduces both. Should this Commission order the adoption of ATXI's Route A, it should also require the Ramp Alt1 modification to be utilized.

- II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**
- III. NEED FOR THE PROPOSED FACILITIES TO SERVE CUSTOMERS OR TO PROMOTE DEVELOPMENT**
- IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES**

ATXI's Route B is the least-cost route for the transmission line. However, if this Commission concludes otherwise, it should find that ATXI's Route A, with both the Zelnio and Ramp Alt 1 modifications, as the next least-cost route alternative.

A. Length of the Line

ATXI's Route A is slightly shorter than either ATXI's Route B or ATXI's Route A with the Ramp Alt 1 modification. However, in discussing the length of the various

routes, ATXI gratuitously notes that proposed modifications require additional structures. ATXI, I.B. p. 20. In doing so, ATXI fails to mention that despite slightly increased length, ATXI's Route A requires the use of dozens of larger, more robust, and more costly angle structures than ATXI's Route B. ATXI Ex. 8.2, Pt. 1 of 2, p. 21. Accordingly, ATXI's logic concerning structure counts could actually suggest that ATXI's Route B is superior.

B. Difficulty and Cost of Construction

ATXI's Route A v. ATXI's Route B

ATXI has stated that ATXI's Routes A, ATXI's Route B, and the Ramp Alt 1 modifications are constructible. Difficulties in construction simply become a function of cost. See, e.g. Molitor, Reb., ATXI Ex. 14.0, ll. 122-139 (explaining the Ramp Alt 1 modification is constructible, but costs more to construct). ATXI has provided cost estimates that include costs for mitigation of environmental impacts, crossing difficult terrain, paralleling pipeline, and so on. CARB's intimation that there are additional, unknown, costs associated with difficulties in construction is incorrect. CARB, I.B. pp. 5-6. Those costs have already been estimated and included in the values provided in ATXI's and the SP Parties' initial briefs. See, Klein, Tr. 228:7-23, 229:8-14, 246:19-24.

Moreover, ATXI, Staff, and others fail to recognize that the Illinois public is only responsible for a small portion of any increase in costs.¹ The Public Utilities Act expressly states that the Act is concerned about "Illinois citizens," not mentioning citizens of other states within the MISO area. 220 ILCS 5/1-102. Accordingly, when

¹ Klein, Reb., ATXI Ex. 12.0, ll. 4-5; Rockrohr, Reb., Staff Ex. 2.0N, ll. 191-195 (explaining that ATXI's ratepayers are only responsible for 9.5% of the cost); SP-ATXI Cross Ex. 1.

comparing routing alternatives, this Commission should consider that the superior ATXI Route B only increases costs by \$551,000 for the Illinois public.

Utilization of Ramp Alt 1 Modification

ATXI's stated concerns about the difficulty of building a corner pole for the Ramp Alt 1 modification are overstated. ATXI advocates for the utilization of its Route A. Route A has a significantly higher number of angle structures than ATXI's Route B, including Light-Heavy-Angle and Heavy-Angle structures. ATXI Ex. 8.2, Pt. 1 of 2, p. 21. Much like the many other angle structures, it is constructible. Despite being aware of the modification for months, ATXI failed to make any effort to identify a location for the turn. Molitor, Tr. 16:11-16. ATXI's lack of effort is contrary to its repeated assertions that it will accept landowner feedback when determining pole placement. See, Molitor, Reb., ATXI Ex. 14.0, ll. 154-160.

ATXI also raised concerns about paralleling pipeline and the costs associated with doing so. ATXI, I.B. p. 21. ATXI claims, "cost estimates and related increase[s] as compared to [ATXI's] Route A are conservative." However, comparing apples to apples, as we must, the cost comparison is (i) a conservatively estimated cost for Route A to (ii) a conservatively estimated cost for Route A utilizing the Ramp Alt 1 modification. Besides, as Staff pointed out, any alleged uncertainty stems from ATXI's refusal to communicate with others. Rockrohr, Reb., Staff Ex. 2.0, ll. 116-121 ("If ATXI had communicated . . . and provided that information in its rebuttal testimony, this issue could appropriately be used to compare to the two route proposals. Instead, . . . Mr. Molitor simply speculates . . .").

C. Difficulty and Cost of Operation and Maintenance

ATXI's Route A v. ATXI's Route B

No party has presented evidence on the cost for this factor. See, e.g. Klein, Tr. 236:6-9. However, CARB speculates that ATXI's Route B will be more difficult to maintain than ATXI's Route A because of a greater number of poles. CARB, I.B. p. 6. However, CARB's speculation fails to account for ATXI's Route A's greater number of heavily strained poles, to wit, 23 more light angle structures, 13 more medium angle structures, 6 more light heavy structures, and 3 more heavy structures. ATXI Ex. 8.2, Pt. 1 of 2, p. 21. Moreover, given that ATXI's Route A crosses more difficult terrain, it is apparent that reaching poles and transmission lines for maintenance will be more difficult. See, ATXI Ex. 8.2, Pt. 1 of 2, p. 20; Tomlinson, I.B., pp. 3-4. Courts have recognized access as an issue in the past. See, e.g., Order on Reopening, p. 10-12, *Ill. Power Co.*, Docket 06-0706 (June 23, 2010) (approving a route based, in part, upon physical access considerations). ATXI Route A would be more difficult to maintain than its Route B.

Utilization of Ramp Alt 1 Modification

ATXI's concern about the corner heavy-angle pole is over-stated. ATXI, I.B. p. 22. ATXI's preferred route has sixty-three more angle structures than ATXI's Route A. Indeed, ATXI's Route A has nine more structures in the Light-Heavy-Angle and Heavy-Angle categories than ATXI's Route B. ATXI Ex. 8.2, Pt. 1 of 2, p. 21. As such, ATXI actively advocates for a route having more structures of this type. Accordingly, its concern for a single corner pole appears feigned. In order to avoid discussion on impacts to tilled farm ground, ATXI has repeatedly asserted that final pole placement

has yet to be determined and that it will work with landowners in doing so. *See, e.g.,* Molitor, Reb., ATXI Ex. 14.0, ll. 95-97, 160-166. These assertions beg the question that if ATXI is so concerned about this pole placement, why has it not worked with Ramp or made any attempt to determine a more optimal location for the corner pole. Molitor, Tr. 16:11-16.

D. Environmental Impacts

ATXI's Route A v. ATXI's Route B

The Franklin's Ground Squirrel is not an issue. ATXI has built transmission lines near the animal before. Koch, Tr. 367:17-368:11. Moreover, ATXI and others vastly overstate concerns about streams crossed. *See, e.g.* ATXI, I.B., p. 24. ATXI admits to relying upon outdated computer models. Koch, Tr. 335:11-336:5. To the contrary, Mr. Rodger Moon directly observed that many so-called streams are nothing more than drainage ditches. SP Parties, I.B. p. 20.

Utilization of Ramp Alt 1 Modification

ATXI asserts that, because of the additional impact to forested land, Ramps Alt 1 modification is inferior. ATXI, I.B. p. 24. In doing so, ATXI selectively ignores its own routing study. ATXI admits that the public is more concerned with impacts to agriculture than they are with impacts to forested areas. ATXI, I.B. p. 13. Secondly, ATXI has utilized inaccurate data for calculating forested areas, despite being able to observe inaccuracies. Koch, Tr. 335:11-336:5; ATXI Ex. 8.2, App. B, *generally* (indicating ATXI had access to recent aerial imagery). Therefore, the acreage provided by ATXI is suspect. Moreover, the number of streams crossed is overstated, as explained above.

E. Impacts on Historical Resources

As pointed out on page five of the Tomlinson Initial Brief, ATXI's Route A lies directly across a known historical site and impacts more high-probability archeological areas. Tomlinson, I.B. p. 5, *citing*, ATXI Ex. 8.0, p. 21. This constitutes a greater impact to historical resources than ATXI's Route B simply passing within a half-mile of a single historical residence. CARB, I.B. p. 8.

F. Social and Land Use Impacts

ATXI's Route A v. ATXI's Route B

ATXI errs in suggesting that its Route A "limit[s] societal and land use impacts." ATXI, I.B. p. 25. Indeed, it ignores its own routing study, which indicated impacts to residences and agricultural ground as being of the utmost importance. ATXI, I.B. p. 13, *citing*, ATXI Ex. 8.0 (Rev.), pp. 11, 15. Similarly, CARB relies upon case law concerning the splitting of farm parcels. CARB, I.B., p. 11. However, both fail to recognize that the use of the Interstate 74 corridor splits farms.

Unmodified, ATXI's Route A requires poles to be placed in tilled farm ground to a much greater degree than ATXI's Route B. Molitor, Tr. 161:1-3, 169:4-11, Koch, Tr. 324:8-10 (indicating pole placement seven to ten feet from IDOT right of way and admitting that placement will be in the middle of tilled fields). Mr. Ramp has explained the extensive effects this has on agricultural operations. See, e.g. Ramp, Revised Reb, Ex. 2.0 REVISED, II. 25-31 (explaining that resultant irregular shaped fields result in excess time spent farming, modifications to plant patterns, planting overlaps and gaps, all of which lead to increased costs of production, decreased efficiency, and diminished returns).

ATXI's witness, Mr. Klein, simply relies upon number of structures to assess impact. Mr. Klein is not a farmer, and he fails to recognize that the placement of structures within tilled areas of fields, instead of along untilled areas, greatly increases impacts to land use. *Id.* It is the location not number of placements that are truly important.

Utilization of Ramp Alt 1 Modification

Even if the Commission does not order ATXI to construct the project along ATXI's Route A, the Commission should still partially alleviate the project's significant impact to a large portion of farmland at a marginal cost while not shifting that impact. Ramp's Alt 1 modification replaces miles of poles placed in tilled areas with routing allowing for placement exclusively in untilled areas. Ramp, Tr. 290: 17-20. Additionally, his modification resolves impacts to the Shipleys' hay pasture caused by ATXI's Route A. Shipley, I.B., p. 3.

G. Number of Affected Landowners and other Stakeholders and Proximity to Homes and Other Structures

ATXI's Route A v. ATXI's Route B

CARB asserts that impacts to residences are "virtually identical within the entire 1000' band." CARB, I.B. p. 13. This assertion is a blatant misstatement. The routing study plainly shows that, in an apples to apples comparison, ATXI's Route A impacts 39 more homes than ATXI's Route B. ATXI Ex. 8.2, Part 1 of 2, p. 23. It is inappropriate to consider arguments about specific homes being impacted in specific ways as a way of avoiding the residence count. For example, a home 900 feet away may have a clear view of several transmission poles while a home only 300 feet away may have a well-

developed tree line preventing any impact. This is exactly why the Commission must compare apples to apples, *i.e.* structure counts.

ATXI has repeatedly doubled down on its assertion that any home within 1,000 feet of a transmission line should be counted as impacted. ATXI Ex. 8.2, Part 1 of 2, p. 7; Koch, Tr. 327:18-328:10; *Id.*, 331:22-332:8. The Commission should compare apples to apples (structure counts), not apples to oranges to pineapples to kiwis (considering individual homes as impacted to different degrees for different reasons). Indeed, by dictating that the parties were to discuss “proximity to homes and other structures” as opposed to “individual impacts to each and every home,” the ALJ’s have seemingly recognized that this is the appropriate discussion to have.

Much has been made about the number of parcels and landowners affected by the transmission line. It is obvious that a transmission line utilizing accepted corridors of property lines, half-section lines, and section lines, will result in two-impacted parcels – one per side. However, as explained above, placement in these typically untilled areas results in a massive alleviation of any actual impact to land use by avoiding perpetual effects from irregular fields, mitigating compaction issues, and mitigating aerial application concerns.

The use of the Interstate 74 corridor accounts for the decrease in the number of landowners, parcels, and easement areas. The interstate provides a single statewide parcel, a single statewide owner, and prevents the need for some easements. However, because of the deal that ATXI has apparently² struck with the Illinois Department of Transportation, landowners along this corridor will suffer an excessive impact to their

² No permits have been issued. Molitor, Tr.162:15-18; 189:12-15; Koch, Tr. 325:10-14.

land. Unlike landowners along corridors such as property lines or section lines, Interstate 74 landowners will be forced to abide the construction and placement of poles seven to ten feet within the tilled areas of their fields. Even CARB argues that doing so would have “dramatically more adverse impact to a farmer, because it cuts through the middle of his field.” CARB, I.B., p. 17.

For these reasons, while utilization of the Interstate 74 corridor lowers the number of affected landowners and parcels, it is apparent that it greatly increases the total impact to landowners and parcels.

Utilization of Ramp Alt 1 Modification

While use of the Ramp Alt 1 modification leads to a modest increase in parcels and landowners, it allows for pole placement in untilled areas. None of the landowners affected by the Ramp modification would have to suffer pole placement in tilled areas. Ramp, Tr. 29:17-20. This contrast between lack of actual impact and extensive impact to the parcels along ATXI’s unmodified Route A is drastic and telling. Considering this contrast, the Commission should require Ramp’s Alt 1 modification to be utilized.

H. Proximity to Existing and Planned Development

The Tomlinson initial brief points out that there are subdivisions so close to ATXI’s Route A that the removal of vegetation that provides a noise barrier to the Fox Creek and Thousand Dollar Road subdivisions will lead to impacts to these existing developments. Tomlinson, I.B. p. 4. Moreover, the existing Village of Brimfield has expressed concerns about ATXI Route A’s proximity to the Village. McMurtry Ex. 31.

I. Community Acceptance

ATXI's Route A v. ATXI's Route B

It must be noted that CARB overplays its hand with regards to the community acceptance factor. To begin, CARB put forth no evidence in these proceedings, other than asserting that one of its members erred in signing a document that facially opposed ATXI's Route A. CARB, I.B. pp. 14-15. As a result, CARB's members, some living well outside the project area,³ were not subjected to cross-examination.

Moreover, unlike CARB's non-evidentiary opposition, a letter from Brimfield, a Village of 868 residents,⁴ has been accepted into evidence. McMurtry Ex. 31. By seeking to have the project constructed further away, Brimfield's residents, through their Village President, have effectively opposed ATXI's Route A. Moreover, a petition with over two hundred signatures opposing Route B has been entered into evidence.⁵

Utilization of Ramp Alt 1 Modification

The Community favors use of the Ramp Alt 1 modification. No one has opposed its use and the Knox County Landowner Intervenor, the Shipley family, and Staff all support it. Shipley, I.B p. 3; Staff, I.B. p. 10.

J. Visual Impact

ATXI's assertion that visual impacts are the same for any route is simply incorrect. ATXI, I.B. p. 27. If ATXI's Route A is utilized, sixteen thousand additional

³ See, e.g., CARB Amended Petition to Intervene, Exh. A (showing members living in Peoria Heights, Illinois and Del Rio, Texas).

⁴ *Profile of General Population & Housing Characteristics: 2010 Demographic Profile Data*, United States Census Bureau, available at, <http://factfinder.census.gov/> (last accessed June 28, 2015).

⁵ CARB's statement that the Petition is hearsay should be disregarded. CARB had the opportunity to object to its introduction into evidence at the hearing, or before, and failed to do so. It has waived argument on this point

drivers and their passengers will have to view the transmission line. SP Parties, I.B. 27. Perhaps more importantly, miles of vegetation along Interstate 74 will have to be removed. This, often complete, removal of vegetation will drastically alter the landscape. Moreover, with more individuals living within viewing distance of ATXI's Route A, the visual impact of this project on these individuals is increased. This factor favors the utilization of ATXI's Route B.

K. Presence of Existing Corridors

The SP Parties contend that the Interstate 74 corridor is not a true opportunity. As repeatedly explained, a true opportunity allows for the mitigation of impacts. Indeed, that is the very purpose of identifying opportunities. Koch, Dir., ATXI Ex. 8.0, II. 108-110. However, here, the use of Interstate 74 leads to an increase in impacts to landowners by placement of poles seven to ten feet into their tilled fields, pastures, and tree farming operations, as well as increased impacts to residences. Molitor, Tr. 161:1-3, 169:4-11, Koch, Tr. 324:8-10; ATXI Ex. 8.2, Pt. 1 of 2, p. 23.

In attempting to avoid modifications to its preferred Route, ATXI has gone to great lengths to explain that pipelines, which were initially identified as an opportunity, can actually result in increased costs. ATXI seems oblivious to the fact that the same logic is applicable to the "opportunity" of Interstate 74. Unlike speculated impacts to pipelines, however, the impact here is known and certain. Ramp, Revised Reb, Ex. 2.0 REVISED, II. 25-31 (drastic impacts to farming operations); R. Moon, Dir., Ex. 1.0, II. 126-154, Kunkle Dir., II. 28-30, Koch, Tr. 327:3-11 (complete removal of a majority of trees for large stretch of Interstate 74); ATXI Ex. 8.2, Pt. 1 of 2, p. 23 (increase in impacts to 39 homes). Indeed, Interstate 74 is less of an opportunity than United States

Highway 150 – utilized by ATXI’s Route B – or the property and section lines utilized by Ramp’s Alt 1 modification.

- V. MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS**
- VI. FINANCING THE PROPOSED CONSTRUCTION**
- VII. SECTION 8-503 AUTHORITY**
- VIII. OTHER**

Respectfully submitted,
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74 Landowner Intervenors and
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